

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Phillip Harold Horswell,

File No. 25-cv-1004 (ECT/JFD)

Plaintiff,

v.

**ORDER ACCEPTING REPORT
AND RECOMMENDATION**

State of MN and Keith Ellison, *State of MN*,

Defendants.

Plaintiff Phillip Harold Horswell commenced this action pro se by filing a complaint against the State of Minnesota and its Attorney General, Keith Ellison. ECF No. 1 at 1–2. Mr. Horswell alleges he “was denied due process or a fair trial” at his state-court civil commitment and seeks monetary damages and dismissal of his civil commitment. *Id.* at 4. The case is before the Court on a Report and Recommendation [ECF No. 4] issued by Magistrate Judge John F. Docherty. Judge Docherty recommended dismissing the matter without prejudice on the grounds that Mr. Horswell’s claim was barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). ECF No. 4 at 3. Mr. Horswell subsequently filed two documents, which the Court construes as objections to Judge Docherty’s Report and Recommendation.¹ ECF Nos. 5–6. *See* D. Minn. LR 72.2(b)(1). Because Mr. Horswell

¹ Mr. Horswell’s first document is a letter asking the Court to consider evidence from his civil commitment hearings. ECF No. 6. The second document is an exhibit with transcripts from his two hearings, one dated September 18, 2009, and the other dated October 16, 2009. ECF No. 5 at 6, 48. At the September hearing, Judge Robert D. Walker made a finding of probable cause to proceed on the petition for judicial commitment, *id.* at 9, and continued the final petition hearing for two weeks so that Mr. Horswell had time to retain new counsel, *id.* at 14. At the October hearing, the State presented evidence against

has objected, the Court is required to review the Report and Recommendation de novo pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b)(3). The Court has undertaken de novo review and has concluded that Judge Docherty's analysis and conclusions are correct.

Therefore, based on the foregoing, and on all the files, records, and proceedings herein, **IT IS ORDERED THAT:**

1. The Objections to the Report and Recommendation [ECF Nos. 5–6] are **OVERRULED**.
2. The Report and Recommendation [ECF No. 4] is **ACCEPTED**.
3. This action is **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B).
4. Plaintiff's application to proceed *in forma pauperis* [ECF No. 2] is **DENIED**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: May 12, 2025

s/ Eric C. Tostrud

Eric C. Tostrud

United States District Court

Mr. Horswell, and Mr. Horswell testified in his behalf. *Id.* at 19–48. Judge Walker determined that the State had met its burden and ordered Mr. Horswell civilly committed. *Id.* at 21.